

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

) Case No.: C 07-5490 PSG
JERMAINE MONTIEL,)
Plaintiff,) **FINAL VERDICT FORM**
v.)
CITY OF SAN JOSE, et al,)
Defendants.)

IT IS SO ORDERED.

Dated: June 12, 2013



PAUL S. GREWAL
United States Magistrate Judge

VERDICT FORM

I. Excessive Force Claims

1. Did the officer(s) use excessive force in arresting Plaintiff?

Officer Matt Williams Yes No

Sergeant Carl Sheppard Yes No

If you answered “Yes” to one or both officers, go to Question 2 and answer as to each officer for whom you answered “Yes” above. If not, go to Section II (Unreasonable Arrest Claim).

2. Was the use of excessive force a substantial factor in causing harm to Plaintiff?

Officer Matt Williams Yes No

Sergeant Carl Sheppard Yes No

Go to Section II (Unreasonable Arrest Claim).

II. Unreasonable Arrest Claim

3. Did the officer(s) arrest Plaintiff?

Officer Matt Williams Yes No

Sergeant Carl Sheppard Yes No

If you answered “Yes” to one or both officers, go to Question 4. If not, go to Section III (Unreasonable Detention Claim).

4. Did the officer(s) have probable cause to arrest Plaintiff?

Yes No

If you answered “No,” go to Question 5. If not, go to Section III (Unreasonable Detention Claim).

5. Was the arrest without probable cause a substantial factor in causing harm to Plaintiff?

Yes No

Go to Section III (Unreasonable Detention Claim).

III. Unreasonable Detention Claim

6. Did the officer(s) detain Plaintiff?

Officer Matt Williams Yes No

Sergeant Carl Sheppard Yes No

If you answered “Yes” to one or both officers, go to Question 7 and answer as to each officer for whom you answered “Yes” above. If not, go to Section IV (Constitutional Claim against City of San Jose).

7. Was the detention unreasonable?

Officer Matt Williams Yes No

Sergeant Carl Sheppard Yes No

If you answered “Yes” to one or both officers, go to Question 8 and answer as to each officer for whom you answered “Yes.” If not, go to Section IV (Constitutional Claim against City of San Jose).

8. Was the unreasonable detention a substantial factor in causing harm to Plaintiff?

Officer Matt Williams Yes No

Sergeant Carl Sheppard Yes No

Go to Section IV (Constitutional Claim against City of San Jose).

IV. Constitutional Claim against City of San Jose

9. Did Plaintiff prove that Defendant City of San Jose deprived him of his constitutional rights by maintaining an official policy or custom of unlawful arrest, unlawful detention, or excessive force?

Yes No

If you answered “Yes,” go to Question 10. If not, go to Section V (False Arrest Claim).

10. Did Plaintiff prove that the City of San Jose’s official policy or custom was the moving force behind a violation of his constitutional rights?

Yes No

Go to Section V (False Arrest Claim).

V. False Arrest Claim

Only answer Question 11 if you answered “No” in Question 4. If you answered “Yes” in Question 4, go to Section VI (Battery Claim).

11. Did the officer(s) arrest Plaintiff without a warrant?

Officer Matt Williams Yes No

Sergeant Carl Sheppard Yes No

If you answered “Yes” to one or both officers, go to Question 12 and answer as to each officer for whom you answered “Yes.” If not, go to Section VI (Battery Claim).

12. Was the officer(s)’ conduct a substantial factor in causing harm to Plaintiff?

Officer Matt Williams Yes No

Sergeant Carl Sheppard Yes No

Go to Section VI (Battery Claim).

VI. Battery Claim

13. Did the officer(s) touch Plaintiff with the intent to harm or offend him?

Officer Matt Williams Yes No

Sergeant Carl Sheppard Yes No

If you answered “Yes” to one or both officers, go to Question 14 and answer as to each officer for whom you answered “Yes” in Question 13. If not, go to Section VII (Delay of Medical Care Claim).

14. Did the officer(s) use unreasonable force when arresting Plaintiff?

Officer Matt Williams Yes No

Sergeant Carl Sheppard Yes No

If you answered “Yes” to one or both officers, go to Question 15. If not, go to Section VII (Delay of Medical Care Claim).

15. Did Plaintiff consent to the use of that force?

Yes No

If you answered "No," go to Question 16 and answer as to each officer for whom you answered "Yes" in Question 14. If not, go to Section VII (Delay of Medical Care Claim).

16. Was the officer(s)' use of unreasonable force a substantial factor in causing harm to Plaintiff?

Officer Matt Williams Yes No

Sergeant Carl Sheppard Yes No

Go to Section VII (Delay of Medical Care Claim).

VII. Delay of Medical Care Claim

17. Did the officer(s) act with deliberate indifference to a serious medical need of Plaintiff?

Officer Matt Williams Yes No

Sergeant Carl Sheppard Yes No

If you answered "Yes" to one or both officers, go to Question 18 and answer as to each of the officers for whom you answered "Yes" above. If not, go to Section VIII (Bane Act Claim).

18. Was the officer(s)' deliberate indifference a substantial factor in causing harm to Plaintiff?

Officer Matt Williams Yes No

Sergeant Carl Sheppard Yes No

Go to Section VIII (Bane Act Claim).

VIII. Bane Act Claim

Answer this question only if you answered "Yes" to either officer in Questions 2 (Excessive Force Claim), 5 (Unreasonable Arrest Claim), 8 (Unreasonable Detention Claim) or 18 (Delay of Medical Care Claim). If not, go to Section IX (Negligence Claim).

19. Did the officer(s) interfere with Plaintiff's constitutional rights through threats, intimidation, and coercion?

Officer Matt Williams Yes No

Sergeant Carl Sheppard Yes No

Go to Section IX (Negligence Claim).

IX. Negligence Claim

20. Were the officer(s) negligent?

Officer Matt Williams Yes No

Sergeant Carl Sheppard Yes No

If you answered “Yes” to one or both officers, go to Question 21 and answer as to each of the officers for whom you answered “Yes” above. If not, go to Section X (Tort Liability against the City of San Jose Claim).

21. Was the negligence of the officer(s) a substantial factor in causing Plaintiff’s harm?

Officer Matt Williams Yes No

Sergeant Carl Sheppard Yes No

If you answered “Yes” to one or both officers, go to Question 22. If not, go to Section X (Tort Liability against the City of San Jose Claim).

22. Was Plaintiff negligent?

Yes No

If you answered “Yes,” go to Question 23. If not, go to Section X (Tort Liability against the City of San Jose Claim).

23. Was Plaintiff’s negligence a substantial factor in causing his harm?

Yes No

If you answered “Yes,” go to Question 24. If not, go to Section X (Tort Liability against the City of San Jose Claim).

24. What percentage of responsibility for Plaintiff’s harm do you assign to Plaintiff?

%

Go to Section X (Tort Liability against the City of San Jose Claim).

X. Tort Liability against the City of San Jose Claim

Answer Questions 25 and 26 only if you answered “Yes” to one or both officers in Questions 12 (False Arrest Claim), 16 (Battery Claim), 19 (Bane Act Claim), or 21 (Negligence Claim). If not, go to Section XI (Damages).

25. Were the officer(s) acting within the scope of their employment with the City of San Jose when they harmed Plaintiff?

Officer Matt Williams Yes No

Sergeant Carl Sheppard Yes No

Go to Section XI (Damages).

XI. Damages

Only answer Question 26 if you answered “Yes” to Questions 10 (Constitutional Claim against City of San Jose) or 25 (Tort Liability against City of San Jose) or as to one or both Defendants in Questions 2 (Excessive Force Claim), 5 (Unreasonable Arrest Claim), 8 (Unreasonable Detention Claim), 12 (False Arrest Claim), 16 (Battery Claim), 18 (Delay of Medical Care Claim), 19 (Bane Act Claim), or 21 (Negligence Claim). If you answered “No” to all those questions, stop here, answer no further questions, and have the foreperson sign and date this form.

26. What is the total amount of damages, if any, suffered by Plaintiff? Do not award duplicate damages for the same harm suffered from multiple claims.

\$ _____

Go to Question 27.

27. Did Plaintiff fail to use reasonable efforts to mitigate his damages?

Yes No

If you answered “No,” go to Question 28. If not, go to Question 29.

28. How much of Plaintiffs’ damages could have been mitigated by Plaintiff’s reasonable efforts?

\$ _____

Go to Question 29.

Only answer Question 29 if you answered “Yes” to one or both officers in Questions 2 (Excessive Force Claim), 5 (Unreasonable Arrest Claim), 8 (Unreasonable Detention Claim), 12 (False Arrest Claim), 16 (Battery Claim), 18 (Delay of Medical Care Claim), or 19 (Bane Act Claim).

29. Did the officer(s) engage in malice, oppression, or fraud with respect to the listed claims for which you answered “Yes” above?

Officer Matt Williams Yes No

Sergeant Carl Sheppard Yes No

If you answered “Yes” as to one or both officers, go to Question 30 and answer as to each of the officers for whom you answered “Yes.” If not, stop here, answer no further questions, and have the foreperson sign and date this form.

30. What amount, if any, do you award in punitive damages?

Officer Matt Williams \$_____

Sergeant Carl Sheppard \$_____

Have the foreperson sign and date this form.

Signed: _____ Dated: _____